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RCFE SpecialtyTool: Resident Rights Domain

The RCFE Specialty Tool for the **Resident Rights Domain** provides state licensing requirements in statute & regulations related to resident rights. This Specialty Tool is used during a Comprehensive Visit in situations where non-compliance with resident rights requirements has been identified. This Tool is also helpful in complaint visits, or other visits when LPAs need a full-scope reference on Resident Rights Domain. This Tool is available to licensees to gauge compliance with requirements.

Please Note: Resident Rights cited in the Health and Safety Code §1569.261 through §1569.269 [all of Article 2.5] are afforded only to residents of privately-operated RCFEs.

Resident Rights cited in H&S §1439.50 through §1439.54 and Title 22, §§87468(a)(1) through (a)(18) are afforded to all residents of ALL RCFEs, regardless of ownership.

Requirement	Citation
Resident Rights - General	
H&S §1569.269(b) A licensed residential care facility for the elderly shall not discriminate against a person seeking admission or a resident based on sex, race, color, religion, national origin, marital status, registered domestic partner status, ancestry, actual or perceived sexual orientation, or actual or perceived gender identity.	H&S §1569.269(b)
H&S §1569.80(a) A resident of a residential care facility for the elderly, or the resident's representative, or both, shall have the right to participate in decisionmaking regarding the care and services to be provided to the resident. Accordingly, prior to, or within two weeks after, the resident's admission, the facility shall coordinate a meeting with the resident and the resident's representative, if any, an appropriate member or members of the facility's staff, if the resident is receiving home health services in the facility, a representative of the home health agency involved, and any other appropriate parties. The facility shall ensure that participants in the meeting prepare a written record of the care the resident will receive in the facility, and the resident's preferences regarding the services provided at the facility.	H&S §1569.80(a)
Resident Rights	
Lesbian, Gay, Bisexual, & Transgender LTC Facility Residents' Bill of Rights	
H&S §1569.318 Every residential care facility for the elderly shall abide by the provisions of the Lesbian, Gay, Bisexual, and Transgender Long-Term Care Facility Residents' Bill of Rights (Chapter 2.45 (commencing with Section 1439.50)).	H&S §1569.318
Resident Rights in Privately Operated Facilities	
H&S §1569.269(a) Residents of residential care facilities for the elderly shall have all of the following rights: (1) To be accorded dignity in their personal relationships with staff, residents, and other persons.	H&S §1569.269(a)(1)-(30)

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| <p>(2) To be granted a reasonable level of personal privacy in accommodations, medical treatment, personal care and assistance, visits, communications, telephone conversations, use of the Internet, and meetings of resident and family groups.</p> <p>(3) To confidential treatment of their records and personal information and to approve their release, except as authorized by law.</p> <p>(4) To be encouraged and assisted in exercising their rights as citizens and as residents of the facility. Residents shall be free from interference, coercion, discrimination, and retaliation in exercising their rights.</p> <p>(5) To be accorded safe, healthful, and comfortable accommodations, furnishings, and equipment.</p> <p>(6) To care, supervision, and services that meet their individual needs and are delivered by staff that are sufficient in numbers, qualifications, and competency to meet their needs.</p> <p>(7) To be served food of the quality and in the quantity necessary to meet their nutritional needs.</p> <p>(8) To make choices concerning their daily life in the facility.</p> <p>(9) To fully participate in planning their care, including the right to attend and participate in meetings or communications regarding the care and services to be provided in accordance with Section 1569.80, and to involve persons of their choice in the planning process. The licensee shall provide necessary information and support to ensure that residents direct the process to the maximum extent possible, and are enabled to make informed decisions and choices.</p> <p>(10) To be free from neglect, financial exploitation, involuntary seclusion, punishment, humiliation, intimidation, and verbal, mental, physical, or sexual abuse.</p> <p>(11) To present grievances and recommend changes in policies, procedures, and services to the staff of the facility, the facility's management and governing authority, and to any other person without restraint, coercion, discrimination, reprisal, or other retaliatory actions. The licensee shall take prompt actions to respond to residents' grievances.</p> <p>(12) To contact the State Department of Social Services, the long-term care ombudsman, or both, regarding grievances against the licensee. The licensee shall post the telephone numbers and addresses for the local offices of the State Department of Social Services and ombudsman program, in accordance with Section 9718 of the Welfare and Institutions Code, conspicuously in the facility foyer, lobby, residents' activity room, or other location easily accessible to residents.</p> <p>(13) To be fully informed, as evidenced by the resident's written acknowledgement, prior to or at the time of admission, of all rules governing residents' conduct and responsibilities. In accordance with Section 1569.885, all rules established by a licensee shall be reasonable and shall not violate any rights set forth in this chapter or in other applicable laws or regulations.</p> | |
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| <p>(14) To receive in the admission agreement a comprehensive description of the method for evaluating residents' service needs and the fee schedule for the items and services provided, and to receive written notice of any rate increases pursuant to Sections 1569.655 and 1569.884.</p> <p>(15) To be informed in writing at or before the time of admission of any resident retention limitations set by the state or licensee, including any limitations or restrictions on the licensee's ability to meet residents' needs.</p> <p>(16) To reasonable accommodation of individual needs and preferences in all aspects of life in the facility, except when the health or safety of the individual or other residents would be endangered.</p> <p>(17) To reasonable accommodation of resident preferences concerning room and roommate choices.</p> <p>(18) To written notice of any room changes at least 30 days in advance unless the request for a change is agreed to by the resident, required to fill a vacant bed, or necessary due to an emergency.</p> <p>(19) To share a room with the resident's spouse, domestic partner, or a person of resident's choice when both spouses, partners, or residents live in the same facility and consent to the arrangement.</p> <p>(20) To select their own physicians, pharmacies, privately paid personal assistants, hospice agency, and health care providers, in a manner that is consistent with the resident's contract of admission or other rules of the facility, and in accordance with this act.</p> <p>(21) To have prompt access to review all of their records and to purchase photocopies. Photocopied records shall be promptly provided, not to exceed two business days, at a cost not to exceed the community standard for photocopies.</p> <p>(22) To be protected from involuntary transfers, discharges, and evictions in violation of state laws and regulations. Facilities shall not involuntarily transfer or evict residents for grounds other than those specifically enumerated under state law or regulations, and shall comply with enumerated eviction and relocation protections for residents. For purposes of this paragraph, "involuntary" means a transfer, discharge, or eviction that is initiated by the licensee, not by the resident.</p> <p>(23) To move from a facility.</p> <p>(24) To consent to have relatives and other individuals of the resident's choosing visit during reasonable hours, privately and without prior notice.</p> <p>(25) To receive written information on the right to establish an advanced health care directive and, pursuant to Section 1569.156, the licensee's written policies on honoring those directives.</p> <p>(26) To be encouraged to maintain and develop their fullest potential for independent living through participation in activities that are designed and implemented for this purpose, in accordance with Section 87219 of Title 22 of the California Code of Regulations.</p> <p>(27) To organize and participate in a resident council that is established pursuant to Section 1569.157.</p> <p>(28) To protection of their property from theft or loss in accordance with Sections 1569.152, 1569.153, and 1569.154.</p> | |
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<p>(29) To manage their financial affairs. A licensee shall not require residents to deposit their personal funds with the licensee. Except as provided in approved continuing care agreements, a licensee, or a spouse, domestic partner, relative, or employee of a licensee, shall not do any of the following:</p> <ul style="list-style-type: none"> (A) Accept appointment as a guardian or conservator of the person or estate of a resident. (B) Become or act as a representative payee for any payments made to a resident, without the written and documented consent of the resident or the resident's representative. (C) Serve as an agent for a resident under any general or special power of attorney. (D) Become or act as a joint tenant on any account with a resident. (E) Enter into a loan or promissory agreement or otherwise borrow money from a resident without a notarized written agreement outlining the terms of the repayment being given to the resident. <p>(30) To keep, have access to, and use their own personal possessions, including toilet articles, and to keep and be allowed to spend their own money, unless limited by statute or regulation.</p>	
Posting Requirements in Privately Operated Facilities	
<p>H&S §1569.267(b) Licensees shall prominently post, in areas accessible to the residents and their representatives, a copy of the residents' rights.</p>	<p>H&S §1569.267(b)</p>
<p>H&S §1569.267(c) The rights posted pursuant to subdivision (b) shall be posted both in English and in any other language in a facility in which 5 percent or more of the residents can only read that other language.</p>	<p>H&S §1569.267(c)</p>
Copy of Rights in Privately Operated Facilities	
<p>H&S §1569.267(a) At admission, a facility staff person shall personally advise a resident and the resident's representative of, and give a complete written copy of, the rights in this article and the personal rights in Section 87468 of Title 22 of the California Code of Regulations. The licensee shall have each resident and the resident's representative sign and date a copy of the resident's rights, and the licensee shall include the signed and dated copy in the resident's record.</p>	<p>H&S §1569.267(a)</p>
Resident Rights in Privately and Publicly Operated Facilities	
<p>T-22, §87468(a) Each resident shall have personal rights which include, but are not limited to, the following:</p> <ul style="list-style-type: none"> (1) To be accorded dignity in his/her personal relationships with staff, residents, and other persons. (2) To be accorded safe, healthful and comfortable accommodations, furnishings and equipment. (3) To be free from corporal or unusual punishment, humiliation, intimidation, mental abuse, or other actions of a punitive nature, such as withholding of monetary allowances or interfering with daily living functions such as eating or sleeping patterns or elimination. (4) To be informed by the licensee of the provisions of law regarding complaints and of procedures to confidentially register complaints, including, but not limited to, the address and telephone number of the complaint receiving unit of the licensing agency. 	<p>T-22, §87468(a)(1)-(18)</p>

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<p>(5) To have the freedom of attending religious services or activities of his/her choice and to have visits from the spiritual advisor of his/her choice. Attendance at religious services, either in or outside the facility, shall be on a completely voluntary basis.</p> <p>(6) To leave or depart the facility at any time and to not be locked into any room, building, or on facility premises by day or night. This does not prohibit the establishment of house rules, such as the locking of doors at night, for the protection of residents; nor does it prohibit, with permission of the licensing agency, the barring of windows against intruders.</p> <p>(7) To visit the facility prior to residence along with his/her family and responsible persons.</p> <p>(8) To have his/her family or responsible persons regularly informed by the facility of activities related to his care or services including ongoing evaluations, as appropriate to the resident's needs.</p> <p>(9) To have communications to the facility from his/her family and responsible persons answered promptly and appropriately.</p> <p>(10) To be informed of the facility's policy concerning family visits and other communications with residents, as specified in Health and Safety Code Section 1569.313.</p> <p>(11) To have his/her visitors, including ombudspersons and advocacy representatives permitted to visit privately during reasonable hours and without prior notice, provided that the rights of other residents are not infringed upon.</p> <p>(12) To wear his/her own clothes; to keep and use his/her own personal possessions, including his/her toilet articles; and to keep and be allowed to spend his/her own money.</p> <p>(13) To have access to individual storage space for private use.</p> <p>(14) To have reasonable access to telephones, to both make and receive confidential calls. The licensee may require reimbursement for long distance calls.</p> <p>(15) To mail and receive unopened correspondence in a prompt manner.</p> <p>(16) To receive or reject medical care, or other services.</p> <p>(17) To receive assistance in exercising the right to vote.</p> <p>(18) To move from the facility.</p>	
Posting Requirements in Privately and Publically Operated Facilities	
<p>T-22, §87468(c) Facilities licensed for seven (7) or more shall prominently post, in areas accessible to the residents and their relatives, the following:</p> <p>(1) Procedures for filing confidential complaints.</p> <p>(2) A copy of these rights or, in lieu of a posted copy, instructions on how to obtain additional copies of these rights.</p>	T-22, §87468(c)(1)-(2)
<p>T-22, §87468(d) The information in (c) above shall be posted in English, and in facilities where a significant portion of the residents cannot read English, in the language they can read.</p>	T-22, §87468(d)

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Copy of Rights Privately and Publically Operated Facilities	
T-22, §87468(b) At admission, a resident and the resident's responsible person or conservator shall be personally advised of and given a list of these rights. The licensee shall have each resident and the resident's responsible person or conservator sign a copy of these rights, and the signed copy shall be included in the resident's record.	T-22, §87468(b)
Resident and Family Councils	
<p>Resident Council H&S §1569.157(a) Every licensed residential care facility for the elderly, at the request of two or more residents, shall assist the residents in establishing and maintaining a single resident council at the facility. The resident council shall be composed of residents of the facility. Family members, resident representatives, advocates, long-term care ombudsman program representatives, facility staff, or others may participate in resident council meetings and activities at the invitation of the resident council.</p> <p>(b) A resident council may, among other things, make recommendations to facility administrators to improve the quality of daily living and care in the facility and to promote and protect residents' rights.</p> <p>(c) If a resident council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to those concerns or recommendations within 14 calendar days.</p> <p>(d) Facility policies on resident councils shall not limit the right of residents to meet independently with outside persons or facility personnel.</p> <p>(e) Each resident council member shall be informed by the facility of his or her right to be interviewed as part of the regulatory inspection process.</p> <p>(f) Facilities shall promote resident councils as follows:</p> <ol style="list-style-type: none"> (1) If a facility has a resident council, the facility shall inform new residents of the existence of the resident council. The facility shall also provide information on the time, place, and dates of resident council meetings and the resident representative to contact regarding involvement in the resident council. (2) If a facility has a resident council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison to assist the resident council, make a room available for resident council meetings, and post meeting information in a central location readily accessible to residents, relatives, and resident representatives. (3) If a facility does not have a resident council, upon admission, the facility shall provide written information on the resident's right to form a resident council to the resident and the resident representative, as indicated in the admissions agreement. 	H&S §1569.157(a)-(h)

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<p>(4) Upon request, and with the permission of the resident council, the facility shall share the name and contact information of the designated representative of the resident council with the long-term care ombudsman program.</p> <p>(g) A facility shall not willfully interfere with the formation, maintenance, or promotion of a resident council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a resident council, refusal to publicize resident council meetings or provide appropriate space for either meetings or a bulletin board, or failure to respond to written requests by the resident council in a timely manner.</p> <p>(h) The text of this section with the heading “Rights of Resident Councils” shall be posted in a prominent place at the facility accessible to residents, family members, and resident representatives.</p>	
<p>Family Councils H&S §1569.269(d) Residents’ family members, friends, and representatives have the right to organize and participate in a family council that is established pursuant to Section 1569.158.</p>	<p>H&S §1569.269(d)</p>
<p>H&S §1569.158(a) A residential care facility for the elderly shall not prohibit the formation of a family council. When requested by a member of the resident’s family or the resident representative, a family council shall be allowed to meet in a common meeting room of the facility during mutually agreed upon hours.</p> <p>(b) Facility policies on family councils shall in no way limit the right of residents and participants in a family council to meet independently with outside persons, including members of nonprofit or government organizations or with facility personnel during nonworking hours.</p> <p>(c) “Family council” for the purpose of this section means a meeting of family members, friends, representatives, or agents as defined in Section 14110.8 of the Welfare and Institutions Code of two or more residents to confer in private without facility staff.</p> <p>(d) Family councils shall be provided adequate space on a prominent bulletin board or other posting area for the display of meeting notices, minutes, information, and newsletters.</p> <p>(e) Facility personnel or visitors may attend a family council meeting only at the family council’s invitation.</p>	<p>H&S §1569.158(a)-(i)</p>

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<p>(f) If a family council submits written concerns or recommendations, the facility shall respond in writing regarding any action or inaction taken in response to the concerns or recommendations within 14 calendar days.</p> <p>(g) (1) If a facility has a family council, the facility shall include notice of the family council and its meetings to family members and resident representatives in routine mailings and shall inform family members and resident representatives of new and current residents who are identified on the admissions agreement during the admissions process or in the resident's records, of the existence of the family council, the time and place of meetings of the family council, and the name of the family council representative.</p> <p>(2) If a facility does not have a family council, the facility shall provide, upon admission of a new resident, written information to the resident's family or resident representative of their right to form a family council.</p> <p>(3) Upon request, and with the permission of the family council, the facility shall share the name and contact information of the designated representative of the family council with the long-term care ombudsman program.</p> <p>(h) If a facility has a family council and a licensed capacity of 16 or more, the facility shall appoint a designated staff liaison who shall be responsible for providing assistance to the family council and responding to written requests that result from family council meetings.</p> <p>(i) A facility shall not willfully interfere with the formation, maintenance, or promotion of a family council, or its participation in the regulatory inspection process. For the purposes of this subdivision, willful interference shall include, but shall not be limited to, discrimination or retaliation in any way against an individual as a result of his or her participation in a family council, refusal to publicize family council meetings or provide appropriate space for meetings or postings as required under this section, or failure to respond to written requests by a family council in a timely manner.</p>	
Other Requirements Related to Personal Rights	
<p>Transfers, Evictions, Relocation & Right to File a Complaint</p> <p>H&S §1569.682(a) A licensee of a licensed residential care facility for the elderly shall, prior to transferring a resident of the facility to another facility or to an independent living arrangement as a result of the forfeiture of a license, as described in subdivision (a), (b), or (f) of Section 1569.19, or a change of use of the facility pursuant to the department's regulations, take all reasonable steps to transfer affected residents safely and to minimize possible transfer trauma, and shall, at a minimum, do all of the following:(2) Provide each resident or the resident's responsible person with a written notice no later than 60 days before the intended eviction. The notice shall include all of the following:</p> <p>(A) The reason for the eviction, with specific facts to permit a determination of the date, place, witnesses, and circumstances concerning the reasons.</p>	<p>H&S §1569.682(a)(2)</p>

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<p>(B) A copy of the resident's current service plan.</p> <p>(C) The relocation evaluation.</p> <p>(D) A list of referral agencies.</p> <p>(E) The right of the resident or resident's legal representative to contact the department to investigate the reasons given for the eviction pursuant to Section 1569.35.</p> <p>(F) The contact information for the local long-term care ombudsman, including address and telephone number.</p>	
<p>H&S §1569.683 (a) In addition to complying with other applicable regulations, a licensee of a residential care facility for the elderly who sends a notice of eviction to a resident shall set forth in the notice to quit the reasons relied upon for the eviction, with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons. In addition, the notice to quit shall include all of the following:</p> <ol style="list-style-type: none"> (1) The effective date of the eviction. (2) Resources available to assist in identifying alternative housing and care options, including public and private referral services and case management organizations. (3) Information about the resident's right to file a complaint with the department regarding the eviction, with the name, address, and telephone number of the nearest office of community care licensing and the State Ombudsman. (4) The following statement: "In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing." <p>(b) The licensee, in addition to either serving a 30-day notice, or seeking approval from the department and serving three days notice, on the resident, shall notify, or mail a copy of the notice to quit to, the resident's responsible person.</p>	<p>H&S §1569.683(a)-(b)</p>
<p>T-22, §87224(d) The licensee shall set forth in the notice to quit the reasons relied upon for the eviction with specific facts to permit determination of the date, place, witnesses, and circumstances concerning those reasons.</p> <ol style="list-style-type: none"> (1) The notice to quit shall include the following information: <ol style="list-style-type: none"> (A) The effective date of the eviction. (B) Resources available to assist in identifying alternative housing and care options which include, but are not limited to, the following: <ol style="list-style-type: none"> 1. Referral services that will aid in finding alternative housing. 	<p>T-22, §87224(d)</p>

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<p>2. Case management organizations which help manage individual care and service needs.</p> <p>(C) A statement informing residents of their right to file a complaint with the licensing agency, as specified in Section 87468, subsection (a)(4), including the name, address and telephone number of the licensing office with whom the licensee normally conducts business, and the State Long Term Care Ombudsman office.</p> <p>(D) The following exact statement as specified in Health and Safety Code Section 1569.683(a)(4): "In order to evict a resident who remains in the facility after the effective date of the eviction, the residential care facility for the elderly must file an unlawful detainer action in superior court and receive a written judgment signed by a judge. If the facility pursues the unlawful detainer action, you must be served with a summons and complaint. You have the right to contest the eviction in writing and through a hearing."</p>	
<p>Staff Training H&S §1569.267(d) The licensee shall provide initial and ongoing training for all members of its staff to ensure that residents' rights are fully respected and implemented.</p>	<p>H&S §1569.267(d)</p>
<p>Right to Formulate Advanced Directives H&S §1569.156(a) A residential care facility for the elderly shall do all of the following:</p> <p>(3) Provide written information, upon admission, about the right to make decisions concerning medical care, including the right to accept or refuse medical or surgical treatment and the right, under state law, to formulate advance directives.</p> <p>(4) Provide written information about policies of the facility regarding the implementation of the rights described in paragraph(3)</p>	<p>H&S §1569.156(a)(3)-(4)</p>
<p>Written Information about Right to Make Medical Decisions T-22, §87469(a) Upon admission, a facility shall provide each resident, and representative or responsible person of each resident, with written information about the right to make decisions concerning medical care. This information shall include, but not be limited to, the Department's approved brochure entitled "Your Right To Make Decisions About Medical Treatment," PUB 325, (3/12) and a copy of Sections 87469(b), (c) and (d) of the regulations.</p>	<p>T-22, §87469(a)</p>
<p>Personal Rights Form H&S §1569.313(a) Each residential care facility for the elderly shall state, on its client information form or admission agreement, and on its patient's rights form, the facility's policy concerning family visits and other communication with resident clients and shall promptly post notice of its visiting policy at a location in the facility that is accessible to residents and families.</p> <p>The facility's policy concerning family visits and communication shall be designed to encourage regular family involvement with the resident client and shall provide ample opportunities for family participation in activities at the facility.</p>	<p>H&S §1569.313</p>

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